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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,521	10/01/2003	Vincent LaBonia JR.	PLC 10400	8312
25306	7590	05/01/2006	EXAMINER	
LAW OFFICES OF RAYMOND A. NUZZO, LLC 579 THOMPSON AVENUE EAST HAVEN, CT 06512			GABLER, PHILIP FRANCIS	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 05/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/676,521	Applicant(s) LABONIA ET AL.	
	Examiner Philip Gabler	Art Unit 3637	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 March 2006.  
 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 57-78 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 57, 58, 60, 77 and 78 is/are rejected.  
 7) ☒ Claim(s) 59 and 61-76 is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
     \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 57, 58, 60, 77, and 78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rhoads (US Patent Number 3124402) in view of Wickenberg (US Patent Number 4015886). Rhoads (Figures 1 and 2) discloses a storage device comprising: a pair of opposing side panels (12, 14), each side panel having a front lengthwise end, a rear lengthwise end, an upper widthwise end, and a lower widthwise end; a top panel (above and perpendicular to 12 and 14) attached to the upper widthwise ends of the opposing side panels; a bottom panel (15) attached to the lower widthwise ends of the opposing side panels; and at least one shelf member (24) positioned within the interior of the housing and attached to the opposing side panels (via 20), the at least one shelf member comprising a shelf panel (body of tray 24) that has a predetermined length, a generally planar top side (top of 24) capable of storing parts thereon, a bottom side (bottom of 24), a front lengthwise end section that is proximate to the front of the storage bin and which extends for the entire predetermined length of the shelf panel, and a rear lengthwise end section that is adjacent to the back panel. Rhoads does not explicitly disclose a back panel or particulars of the shelf

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member. The presence of a back panel however, is viewed as inherent as Rhoads does disclose that his device is temperature controlled and includes a door (see column 1 lines 55-58). A back panel would be necessary for the insulated temperature control disclosed. Wickenberg (Figures 1 and 2) discloses a storage device including an inclined section (18) that has a length that is substantially equal to a predetermined length of a shelf panel (10), the inclined section having a top side that is contiguous with the top side (16) of the shelf panel and a bottom side, the inclined section being angulated with respect to the top side of the shelf panel by an inclination angle wherein the inclination angle is measured between the top side of the inclined section and the top side of the shelf panel and is greater than  $90^{\circ}$  and less than  $180^{\circ}$  (see figures), the front lengthwise end section further comprising further comprising a front wall section (34) that is attached to and extends for substantially the entire length of the inclined section, the front wall section having a front side and rear side, the front wall section being angulated with respect to the top side of the inclined section in accordance with a predetermined degree of angulation, the predetermined degree of angulation being measured between the top side of the inclined section and the front side of the front wall section, the predetermined degree of angulation being of such an angle that the front wall section is substantially parallel to a back panel (20) and a space is created between the rear side of the front wall section and the bottom side of the inclined section. As to the last paragraph, it has been held that the function "whereby" statement does not define any structure and accordingly cannot serve to distinguish. However, the inclined section of Wickenberg's device could allow a user to scoop parts stored on the top side

of the shelf panel. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace Rhoads' shelf member with a member as taught by Wickenberg because this arrangement could provide for easier retention and removal of objects stored in the system.

3. Regarding claim 58, Rhoads further discloses a plurality of shelf members having front sides of front wall sections (the front, vertical edge of the shelves) wherein all of the front sides of the front wall sections are substantially coplanar.

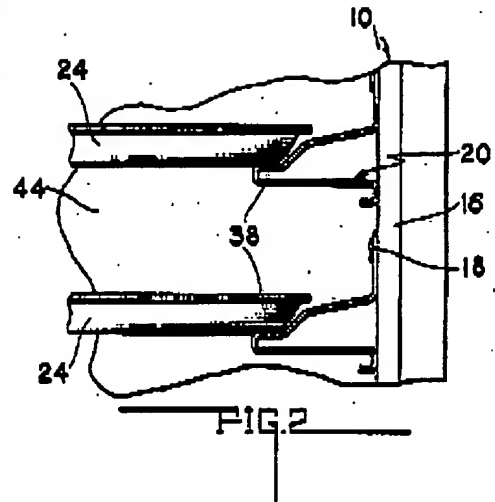
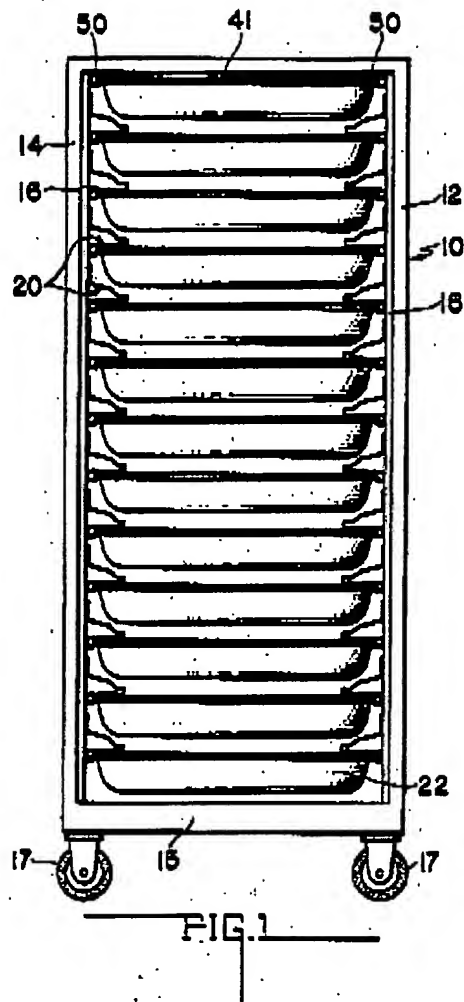
4. Regarding claim 60, Wickenberg further disclose the inclination angle of his inclined section is about  $135^{\circ}$  (see figures).

5. Regarding claim 77, Rhoads discloses a storage device comprising: a pair of opposing side panels (12, 14), each side panel having a front lengthwise end, a rear lengthwise end, an upper widthwise end, and a lower widthwise end; a top panel (above and perpendicular to 12 and 14) attached to the upper widthwise ends of the opposing side panels; a bottom panel (15) attached to the lower widthwise ends of the opposing side panels; and at least one shelf member (24) positioned within the interior of the housing and attached to the opposing side panels, the at least one shelf member comprising a shelf panel (body of tray 24) that has a predetermined length, a generally planar top side (top of 24) capable of storing parts thereon, a bottom side (bottom of 24), a front lengthwise end section that is proximate to the front of the storage bin and which extends for the entire predetermined length of the shelf panel, and a rear lengthwise end section that is adjacent to the back panel. Rhoads does not explicitly disclose a back panel or particulars of the shelf member. The presence of a back panel

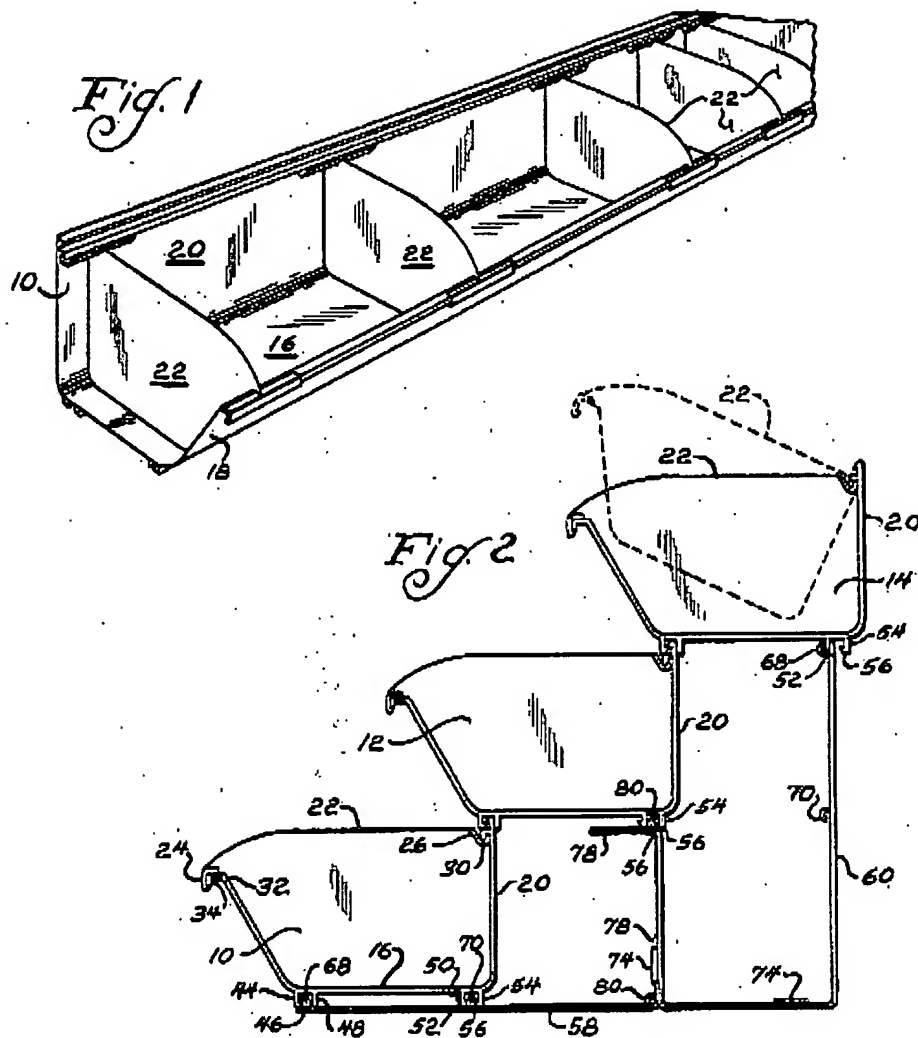
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however, is viewed as inherent as Rhoads does disclose that his device is temperature controlled and includes a door (see column 1 lines 55-58). A back panel would be necessary for the insulated temperature control disclosed. Wickenberg discloses a storage device including an inclined section (18) that has a length that is substantially equal to a predetermined length of a shelf panel (10), the inclined section having a top side that is contiguous with the top side (16) of the shelf panel and a bottom side, the inclined section being angulated with respect to the top side of the shelf panel by an inclination angle wherein the inclination angle is measure between the top side of the inclined section and the top side of the shelf panel and is between about  $110^{\circ}$  and about  $170^{\circ}$  (see figures). As to the remainder of the claim, it has been held that the function "whereby" statement does not define any structure and accordingly cannot serve to distinguish. However, the inclined section of Wickenberg's device could allow a user to scoop parts stored on the top side of the shelf panel. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace Rhoads' shelf member with a member as taught by Wickenberg because this arrangement could provide for easier retention and removal of objects stored in the system.

6. Regarding claim 78, Wickenberg further discloses the inclination angle of his inclined section is about  $135^{\circ}$  (see figures).



Rhoads '402 Figures 1 and 2



Wickenberg '886 Figures 1 and 2

**Allowable Subject Matter**

7. Claims 59 and 61-76 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.



***Response to Arguments***

8. Applicant's arguments, see the first page of remarks, filed 6 March 2006, with respect to the lack of an Information Disclosure Statement and the 35 USC 112 rejections of claims 60, 65, and 66 have been fully considered and are persuasive. The 35 USC 112 rejections of claims 60, 65, and 66 have been withdrawn. It is again noted however, that references listed solely in the specification have not been considered unless they have been cited on PTO-892.
9. Applicant's arguments with respect to the art rejections of claims 57-78 have been considered but are moot in view of the new grounds of rejection.
10. The exhibit filed on 6 March 2006 has been considered but is ineffective to overcome the new grounds of rejection.

***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Mitchell (US Patent Number 2926978), Pacetti (US Patent Number 5664856), Joyce (US Patent Number 3581906), Hall (US Patent Number 2211113), Bienick (US Patent Number 6422673), Lye (US Patent Number 6227636), and Albright (US Patent Number 4757915) references have been cited for disclosing various aspects of the invention of the instant application.
12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

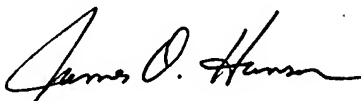
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Gabler whose telephone number is (571) 272-6038. The examiner can normally be reached on Monday through Friday, 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PFG *ib*  
4/20/2006

  
JAMES O. HANSEN  
PRIMARY EXAMINER